

From: [Rebecca Messinger](#)
To: [Oliver Orjiako](#); [Sonja Wiser](#)
Subject: FW: Clark County Use of Covenants overrides Land Use Aones
Date: Tuesday, December 12, 2023 3:39:14 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Please see the below public comments from CCCU. Thank you!



Rebecca Messinger
Clerk to the Council
COUNTY MANAGER'S OFFICE

564-397-4305



From: Kathleen Otto <Kathleen.Otto@clark.wa.gov>
Sent: Monday, December 11, 2023 8:16 PM
To: Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>; Kristin Phillips <Kristin.Phillips@clark.wa.gov>
Subject: Fw: Clark County Use of Covenants overrides Land Use Aones



Kathleen Otto
County Manager

564.397.2458



From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
Sent: Monday, December 11, 2023 5:42 PM
To: Karen Bowerman <Karen.Bowerman@clark.wa.gov>; Gary Medvigy

<Gary.Medvivy@clark.wa.gov>; Michelle Belkot <Michelle.Belkot@clark.wa.gov>; Glen Yung <Glen.Yung@clark.wa.gov>; Sue Marshall <Sue.Marshall@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>

Subject: Clark County Use of Covenants overrides Land Use Aones

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Over the course of nearly 30 years, Clark County Citizens United, Inc. has seen the County burden private properties with inappropriate large lot zoning. Over time, CCCU has also seen the County inappropriately use land use "overlays" to further impose land use restrictions stated in the land use zones of approved Clark County Comprehensive Plans and updates. CCCU uses the term "inappropriate" because the County has illegally allowed the overlays to linger in place over decades.

More recently, we're seeing the county use customized covenants on private properties as another tool. The staff generated covenants, further land use restrictions, that dominate over the authorized *uses* stated in the zone. In effect, this practice obliterates most of the *uses* of the land and renders the land use zone nearly irrelevant.

Land use zoning must endure a very formal adoption that includes an authorized public participation process as the foundation, mandated by the Growth Management Act. One would think zoning is the citizen's most critical land use tool as it's rooted in Washington's GMA and supported in court actions.

This type of public process provides land owners with an element of certainty. But CCCU sees a very different public process in Clark County. CCCU questions:

- **1. How is it that a county system of covenants is allowed to operate and further restrict zoned land uses as adopted in formal Comprehensive Plans and subsequent updates?**
- **2. How is it that county covenants on private lands have evolved as the controlling, dominant force that supersedes land use zoning?**
- **3. How is it that the County is allowed to impose customized covenants on private lands that limit or nearly eliminate all uses of citizen participation, without the blessing of elected officials?**
- **4. How is it county staff are able to burden private lands with covenants without any regard for critical impacts to private property rights and housing needs of rural citizens?**
- **5. Why is there is no regard for impacts to private property rights, culture and rural**

housing.

- **6. Why is there is no official authorized policy by elected officials.**
- **7. Why is there is no meaningful public participation process.**

Adopted land use zoning laws allow some flexibility and an element of certainty for the owner's use of the land. Despite what's adopted in the Clark County Comprehensive Plans, covenants are being imposed to further control more details of what a landowner may build on their property, what size, location, type and number of plantings, use of a building and what *may* or *may not* be possible uses for the remaining land. The county is choosing to institutionalize covenants to further limit private land owner's uses of their properties, and broaden the county's enforcement of land use controls. This is not what the Growth Management Act intended.

Situation after situation, CCCU has seen landowners overcome with uncertainty. County staff have been making choices between applying appropriate uses to land zones, and/or creating customized covenants to further impose restrictions on private land. This allows staff to avoid the public participation built into the land use zoning process. This is critical! The public participation process is foundational to comprehensive plans and the GMA. But the elected officials appear to have no voice here.

Somehow, staff have been allowed to disempower policies set by elected officials and county citizens. Housing for rural citizens has the most at stake. Good public policy requires opportunities for property owners to be heard before regulations, which substantially affect their property rights, are adopted.

The GMA demands a public process that results in appropriate land use policy for all.

Sincerely,

Susan Rasmussen, President

Clark County Citizens United, Inc.
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